

The FCC has to put the public interest ahead of the interest of one industry. Broadcast flag will be a big win for the TV industry and a big loss --of freedom, money, and untold technological innovations-- to the public. This is the kind of proposal we expect to see industries request, but never to see an impartial and fair-minded government approve.

Until recently members of the general public didn't have the technical means to exercise their fair-use rights over television content. But now that we do have the means, the TV industry wants to deprive us of it. But they have no legal argument, only financial interest. Fair use is not a luxury or a privilege; it is a right under federal copyright law. The FCC's job is to speak for the public, not to side with any industry against the public.

Federal copyright law also creates and protects the public domain. But the broadcast flag would make television content permanently proprietary, and prevent it from passing into the public domain. The TV industry is worried about piracy, but its remedy is piracy from the public domain --with government assistance.

I'd like to rest the argument here, on the right of fair-use, the right of the public domain, and the obligation of the FCC to defend the public interest.

But please consider the secondary arguments. When you look at the unexpected creativity that engineers and entrepreneurs have brought to bear on web content, music content, telephone content, and even pager content, then it doesn't take much imagination to see that the same creativity can do wonders with TV content, if left unshackled. Broadcast flag will shackle it. Before long, non-US technologies will take the lead in making creative use of television signals, and Americans will have to live without these innovations. This is another case of the dinosaurs killing the mammals -- for no other reason than to enrich themselves. Again, where is the public interest in this controversy?

Finally, it boggles the mind to think of the cost of making all television and video recording equipment in the US suddenly obsolete. Does the FCC want to ask Americans to buy new equipment when the only gain is for one industry? Does the FCC want to diminish our freedom and ask us to pay through the nose for it too?

